

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

JACQUELINE FITZPATRICK and DENNIS
FITZPATRICK,

CIVIL ACTION NO. _____

Plaintiffs,

v.

LIF DERVISHOLLI and USA FREIGHT,
INC.,

Defendants,

NOTICE OF REMOVAL

**TO THE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

Pursuant to 28 U.S.C. § 1446(a), Defendants, Lif Dervisholli (“Dervisholli”) and USA Freight, Inc. (“USA Freight”) (collectively the “defendants”), hereby invoke this Court’s jurisdiction under the provisions of 28 U.S.C. §§ 1332(a) and 1441(a) and state the following grounds for removal:

1. On or about February 10, 2022, the plaintiffs, Jacqueline Fitzpatrick (“Mrs. Fitzpatrick”) and Dennis Fitzpatrick (“Mr. Fitzpatrick”) (collectively, the “plaintiffs”), filed an action, styled and captioned as above and assigned Civil Action No. 184CV02730, for alleged negligence against the Defendants in Middlesex County Superior Court. A copy of the Complaint is attached hereto as Exhibit A.

2. The plaintiffs purportedly served the Complaint upon the defendant, USA Freight, on February 23, 2022. A copy of the summons is attached hereto as Exhibit B.

3. The Summons and Complaint constitute all process, pleadings, and orders served on Defendant to date in this action. *See* Exhibits A and B.

4. Having been filed within thirty (30) days of service of the Complaint upon the defendants, this Notice of Removal to the United States District Court has been filed in a timely manner pursuant to the provisions of 28 U.S.C. § 1446(b). *See* Murphy Brothers, Inc. v. Michetti Pipe Stringing, Inc., 526 U.S. 344, 347-48, 119 S. Ct. 1322, 1325 (1999).

5. The requirements of 28 U.S.C. § 1446(b)(2) are satisfied where all defendants have joined in removal of this action.

6. The defendants will promptly provide written notice, as required by 28 U.S.C. § 1446(d), to the plaintiffs and to the clerk of the state court, where this action was originally filed.

7. Jurisdiction exists over this removed action, pursuant to 28 U.S.C. § 1441, because this action could have been originally filed in this Court, pursuant to 28 U.S.C. § 1332(a)(1), on the basis that there is complete diversity of citizenship between the adverse parties and the amount in controversy exceeds \$75,000:

- a. Dervisholli resides at 133 West Ave., East Rochester, New York.
- b. USA Freight is incorporated in Illinois.
- c. USA Freight has a principal place of business at 2720 S. River Rd., Ste. 200, Des Plaines, Illinois.
- d. Based on the plaintiffs' Civil Action Cover Sheet, the plaintiffs reside at 12 Pondover Road, Billerica, Massachusetts. The plaintiff's Civil Action Cover Sheet is attached hereto as Exhibit C.
- e. Mrs. Fitzpatrick is claiming that as a result of the Defendants' alleged negligence, she "suffered severe and painful injuries, suffered great pain of body and mind,

was obliged to spend money for medical attention and services, suffered lost wages, and suffered additional out-of-pocket and consequential damages.” *See* Exhibit A.

f. Mr. Fitzpatrick is claiming that “[a]s a direct and proximate result of the aforementioned accident, which occurred as the direct and proximate result of the negligence [of the defendants]..., the plaintiff, Dennis Fitzpatrick, has suffered a loss of consortium and a loss of the companionship, support and nurturing of his wife..., Jacqueline Fitzpatrick.” *See Id.*

g. The Civil Action Cover Sheet filed by the plaintiffs with the Middlesex County Superior Court alleges that Mrs. Fitzpatrick suffers from “severe and lasting headaches, neck and back pain, post-traumatic stress, depression, anxiety, inability to work for an extended period of time [and] a permanent disability arising from a combination of her physical and mental injuries, which continue to date[,] and which are believed to be permanent.” *See* Exhibit C.

h. The Civil Action Cover Sheet filed by the plaintiffs alleges that “[Mr. Fitzpatrick is bringing an action for loss of consortium as a result of the injuries to his wife..., Jacqueline Fitzpatrick.” *Id.*

i. The plaintiffs are claiming that the above-referenced injuries have resulted in hospital, doctor, physical therapy, and other medical expenses of approximately \$40,026.79, as well as reasonably anticipated future medical and hospital expenses in excess of \$20,000. *Id.*

j. The plaintiffs are claiming that as a result of the above-referenced injuries, Mrs. Fitzpatrick has incurred documented lost wages and compensation of \$432,000. *Id.*

k. The plaintiffs are claiming that as a result of the above-referenced injuries, Mrs. Fitzpatrick has incurred \$8,381.80 of property damages. Id.

l. Additionally, the plaintiffs are averring that they have suffered \$1,000,000 in pain and suffering. Id.

m. The plaintiffs have set forth a total claim for \$1,505,408.59 in damages. Id.

8. Pursuant to 28 U.S.C. §§ 101 and 1441, the United States District Court for the District of Massachusetts is the proper forum for removal of the state court action, which was commenced in the Middlesex County Superior Court in the Commonwealth of Massachusetts.

WHEREFORE, the defendants, Dervisholli and USA Freight, respectfully request that this action pending before the Middlesex County Superior Court be removed therefrom to this Court and proceed as an action properly so removed.

Respectfully submitted,

Defendants
Lif Dervisholli and USA Freight, Inc.

By Their Attorneys,

/s/ Gareth W. Notis

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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on March 4, 2022

/s/ Gareth W. Notis